MC 2633/2007

BEFORE

HON’BLE JUSTICE MR RANJAN GOGOI

Heard Sri SP Roy, learned counsel for the applicant-writ petitioner and Sri MH Rajbarbhuiya, learned counsel for the Respondent No.4 in the writ petition. Also heard Sri G.Soren, learned G.A., Assam.

By this Miscellaneous Application the applicant-writ petitioner seeks review/recall of an order dated 18.7.2007 passed in Misc. Case No. 2224 of 2007. By the aforesaid order dated 18.7.2007 this Court had vacated the interim order dated 9.4.2007 passed in the writ petition on the grounds stated in the said order.

Sri SP Roy, learned counsel for the applicant-writ petitioner in support of the prayers made, besides explaining the reasons for the non-appearance of the learned counsel for the writ petitioner at the time of consideration of M.C.No.2224/2007, has further submitted that on the issues arising in the writ petition, the present would be a fit case for grant of fresh interim orders in favour of the applicant-writ petitioner. In this regard Sri Roy has placed before the Court the documents enclosed to the writ petition to contend that the registration certificate of the Respondent No.4 on the basis of which the decision to award the contract in favour of the said Respondent was arrived at was valid for the year 2005-2006 and by the time the contract was finalized on 8.4.2007 the said registration certificate had spent its force. Sri Roy has further submitted that the applicant-writ petitioner obtained a renewal of the earlier registration or a fresh registration certificate for the year 2006-2007, which was considered by the authority while deciding to award the contract in favour of the Respondent No.4.

The materials available on record prima facie support the stand taken by Sri Roy. In the aforesaid circumstances, it will be necessary for the Court to determine certain other questions of fact particularly with regard to the validity of the registration certificate of the Respondent No.4 as submitted by him along with the tender and also the correctness of the action of the Respondent-authorities in relying on the fresh/renewed registration for the year 2006-2007, if the said course of action was adopted. As the aforesaid information is not before the Court, the Court directs the official respondent in the case to clarify the above position and place before the Court the tender papers of the petitioner and the Respondent No.4 as submitted and such other documents as may have been submitted by either of the aforesaid two parties subsequently. Pending determination of the aforesaid question of fact, the Court is of the view that the earlier interim order dated 9.4.2007 should be restored. It is, therefore, ordered accordingly.

Miscellaneous Case is accordingly allowed.